

FPPC *Bulletin*



September 2003

Fair Political Practices Commission

Volume 29, No. 3

IN THIS ISSUE:

<i>Message from the Chair</i>	1
<i>New FPPC member</i>	2
<i>What's new on the web</i>	3
<i>New disclosure rules</i>	4
<i>Express advocacy ruling</i>	5
<i>Enforcement summaries</i>	6
<i>Clerks' Corner</i>	18
<i>Interim Filing Obligations</i>	19
<i>Litigation report</i>	20
<i>Advice summaries</i>	23

Toll-free Advice Line: 1-866-ASK-FPPC

Public officials, local government filing officers, candidates, lobbyists and others with obligations under the Political Reform Act are encouraged to call toll-free for advice on issues including campaign contributions and expenditures, lobbying and conflicts of interest. FPPC staff members answer thousands of calls for telephone advice each month.

Message from the Chair

The Commission wholeheartedly encourages comments and feedback from the public and regulated community, and I am happy to report that we are making it easier than ever to get involved.

A major new tool for the public is our e-mail subscription service. Found on the Mailing Lists page of our web site (www.fppc.ca.gov), this free service provides automatic notification of Interested Persons meetings, Commission agendas, draft forms and publications as well as other opportunities for comment. Consider signing up today for the subscriptions of interest to you.

Other areas of our constantly expanding web site provide additional information for those who may wish to comment on Commission activities. Our Interested Persons page, in the Commission section of the site, will also provide notice and background information for future Interested Persons opportunities. Take some time to explore our web site and see what is offered.

The Interested Persons process guarantees an opportunity for public input at the formative stages of rulemaking. But unless you send comments or attend a meeting, the Commission may not hear your point of view.

We welcome your suggestions on all of our efforts, including our important new study of proposals to merge Government Code 1090 and other statutory and Common Law conflict of interest provisions into the Political Reform Act. Many believe that by having all of these conflict laws "under one roof," implementation, education and compliance would be simplified and improved.

What is your view? We have launched a new web page and e-mail subscription list just for this study. Just click the link in the "New Section 1090 Study" news item on the right side of our home page.

Simply stated, we hope to hear from you as we pursue new projects, studies and regulatory changes to further our shared goal of fairly administering and enforcing the Political Reform Act.

Liane M. Randolph, Chair

**California
Fair Political
Practices Commission**

Commissioners

Liane Randolph, Chair
Philip Blair
Sheridan Downey III
Pamela Karlan
Thomas S. Knox

Commission Meetings

Meetings are generally scheduled monthly in the Commission Hearing Room, 428 J Street, 8th Floor, Sacramento. Please contact the Commission or check the FPPC web site, <http://www.fppc.ca.gov>, to confirm meeting dates.

Pursuant to Section 11125 of the Bagley-Keene Open Meeting Act, the FPPC is required to give notice of its meetings ten (10) days in advance of the meeting. In order to allow time for inclusion in the meeting agenda and reproduction, all Stipulation, Decision and Order materials must be received by the FPPC no later than three (3) business days prior to the ten day notice date.

The Commission meeting agenda and supporting documents are available free of charge on the Commission's web site at <http://www.fppc.ca.gov>. Additionally, past and future agendas are posted on the web site.

Philip Blair Named FPPC Commissioner

San Diego business leader Philip Blair has been appointed as a commissioner of the Fair Political Practices Commission.

Blair, named to the post on July 29 by Gov. Gray Davis, brings to the Commission a substantial record of business, civic, and public service experience.

He is the president and CEO of the third largest Manpower Temporary Services franchise in the United States, a business he and his partner have built into San Diego's fourth largest local employer. The San Diego Manpower franchise, which Blair started 26 years ago with partner Mel Katz, has nine branches throughout the county, providing an estimated 4,000 jobs daily, with annual revenues of nearly \$100 million.

"We are delighted to have Mr. Blair on board," said FPPC Chair Liane Randolph. "His experience running a business will bring a fresh perspective to the Commission."

Blair, a Republican, also serves on the boards of directors of numerous civic and arts organizations, including the Naval Training Center Foundation for the Arts and Culture, the San Diego County Convention and Visitor's Bureau, the San Diego Lincoln Club, the Greater San Diego Chamber of Commerce, the Red Cross and the College of Business Advisory Board for San Diego State University.

He is a past board member of the Children's Hospital and YMCA of San Diego County, and past chairman of the San Diego Workforce Partnership, the regional School-to-Career Task Force, the San Diego Community Foundation and Planned Parenthood for San Diego and Riverside Counties.

Blair is the author of numerous columns and articles in San Diego-area publications and has hosted career- and advice-related radio programs. He was appointed to the San Diego City Council in 2000 to complete a vacated term.

The new commissioner received a Bachelor's degree in business administration from Oklahoma State University.

His term on the FPPC expires January 31, 2007.

With the exception of the chair, FPPC commissioners are part-time, serve without salary and receive a \$100 stipend for each

(Continued on page 3)

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...New Commissioner

(Continued from page 2)

monthly meeting.

Blair succeeds Gordana Swanson, a former mayor of the city of Rolling Hills in southern California, who was appointed to the FPPC by the governor in 1999.

Web Site Update



By Jon Matthews
FPPC Publications Editor

Oct. 7 Special Election Information

Filing schedules for committees and candidates are available for the Statewide Special Election on October 7, 2003. For links to the filing schedules, as well as to filing schedules for other 2003 and 2004 elections, go to this page on the FPPC's web site:

<http://www.fppc.ca.gov/index.html?id=222>

The Commission, at its August meeting, approved a revised and expanded fact sheet relating to the special election. To see the fact sheet (in .pdf format), go to the following link on our web site:

<http://www.fppc.ca.gov/library/recallfactsheet.pdf>

New Section 1090 Study Web Page

Did you know that some of California's conflict of interest rules are not part of the Political Reform Act and are outside the jurisdiction of the FPPC?

The FPPC is seeking public participation in a study of proposals to merge Government Code section 1090 and other statutory and Common

Law conflict of interest provisions into the Political Reform Act.

The thinking behind this proposal is that by moving the provisions into the Act, the Commission could further clarify and implement the sections through its administrative rulemaking process and provide advice to officials trying to comply with the rules.

To see our new web page on the study, which includes links to a mailing list and other materials, go to this page on our site:

<http://www.fppc.ca.gov/index.html?id=432>

FPPC Expands New E-mail Subscription System

Sign up, it's free!

The FPPC has expanded its new, automatic system for e-mailing Commission materials to interested members of the public, regulated community and media. Benefits of this system include more timely and efficient service to those seeking information as well as conservation of the Commission's limited resources.

As of late August, the following e-mail subscription lists were being offered:

- ◆ **FPPC Bulletin** (*Our agency's free quarterly newsletter*)
- ◆ **FPPC Agenda** (*Our monthly Commission meeting agenda*)
- ◆ **FPPC Form 700 Mailing List** (*News about changes to the Form 700, including notices of proposed annual amendments to the form and the availability of updated versions of the blank form on our website*)
- ◆ **FPPC Press Releases** (*News and advisories about Commission meetings and activities*)
- ◆ **FPPC Interested Persons** (*Notices and news about our meetings to solicit public input on regulatory proposals and other projects*)

(Continued on page 4)

....Web Site Update

(Continued from page 3)

- ♦ **Section 1090 Merger Study** (*Notices and news about our staff study to investigate the possible merger of conflict of interest laws that are not currently in the Political Reform Act into the framework of the Act*)
- ♦ **FPPC Regulations** (*Notices of proposed and newly adopted regulations*)

To use the system, simply go to the new FPPC Mailing Lists page, accessed through the Mailing Lists link at the bottom of the left hand column of our web home page:

<http://www.fppc.ca.gov/index.html?id=408>

Once at the page, simply enter your e-mail address. Choose the e-mail list or lists you would like to join and click on the "submit" button at the bottom of the form. You then will receive a confirmation e-mail for each list chosen. Reply to the confirmation e-mail(s) and the selected materials will be sent to the e-mail address you have entered.

Note that you also can use the new FPPC Mailing Lists page to *unsubscribe* from FPPC mailing lists in which you are no longer interested.

Please note that all of the publications and materials offered via the e-mail system also will be available directly from our web site.

If you have questions about the new system, don't hesitate to e-mail or call FPPC Publications Editor Jon Matthews at jmatthews@fppc.ca.gov, or (916) 323-2937.

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(1-866-275-3772)

New Rules Regarding Public Disclosure of Conflicts of Interest

Regulation 18702.5

By Jeanette Turvill
 FPPC Political Reform Consultant

At its May meeting, the Commission codified by regulation a new procedure that public officials must follow for disclosure of economic interests when they have a conflict of interest at a public meeting.

This procedure is required under newly enacted Government Code section 87105 and regulation 18702.5.

Public officials specified in section 87200 of the Government Code, such as council members, planning commissioners, and boards of supervisors, must publicly identify in detail the economic interest that creates the conflict, step down from the dais and must then leave the room. This identification must be following the announcement of the agenda item to be discussed or voted upon, but before either the discussion or vote commences.

Additionally, the disqualified official may not be counted toward achieving a quorum while the item is being discussed.

The identification of the conflict and economic interest must be made orally and shall be made part of the public record.

Exceptions:

- If the decision is to take place during a closed session, the identification of the economic interest must be made during the public meeting prior to the closed session but is limited to a declaration that the official has a conflict of interest. The economic interest that is the basis for the conflict need not be disclosed. The official may not be present during consideration of the closed session item and may not obtain or review

(Continued on page 5)

....Conflict Disclosure

(Continued from page 4)

any non-public information regarding the decision.

- A public official is not required to leave the room for an agenda item on the consent calendar provided that the official recuses himself or herself and publicly discloses the economic interest as described above.
- A public official may speak as a member of the general public only when the economic interest that is the basis for the conflict is a personal economic interest, for example, his or her personal residence or wholly owned business. The official must leave the dais to speak from the same area as the members of the public and may listen to the public discussion of the matter.



Examples:

The Arroyo City Council is considering widening the street in front of council member Smith's personal residence. Council member Smith must disclose on the record that his home creates a conflict of interest preventing him from participating in the vote. He must leave the dais but can sit in the public area, speak on the matter and listen to the public discussion.

Planning Commissioner Cowper is a greater than 10% partner in an engineering firm. The firm represents a client who is an applicant on a project pending before the planning commission. Commissioner Cowper must publicly disclose that the applicant is a source of income to her requiring her recusal. Commissioner Cowper must step down from the dais and leave the room. Since this is not a personal interest

*that is the basis for the conflict, she **may not** sit in the public area and listen to the discussion.*

*Supervisor Robertson rents a home to a county employee. The county employee is the subject of a disciplinary matter in a closed session of the Board of Supervisors. During the open session prior to adjourning to closed session, Supervisor Robertson announces that he must recuse himself from participating in the closed session **but does not disclose that the reason for his recusal is a source of income nor does he name the county employee that is the source of income to him.** He may not attend the closed session or obtain any non-public information from the closed session.*

Court Upholds Authority to Regulate Express Ballot Measure Advocacy

The U.S. 9th Circuit Court of Appeals issued a ruling on May 8, 2003, upholding California's authority to regulate express ballot measure advocacy.

The ruling came in the California Pro-Life Council's lawsuit against the FPPC.

In the ruling, the court rejected the plaintiff's legal claims, affirming that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing.

In response to the ruling, FPPC Chair Liane Randolph said, "We are pleased with the ruling by the 9th U.S. Circuit Court of Appeals. The court upheld the constitutionality of the Political Reform Act's independent expenditure definition as it is currently being applied by the Commission.

"Our application of the definition is consistent with the 1st District Court of Appeal's deci-

(Continued on page 6)

....Court Ruling

(Continued from page 5)

sion in *Governor Gray Davis Committee v. American Taxpayers Alliance*.

"Moreover, the court soundly rejected the plaintiff's argument that the state has no right to regulate express ballot measure activity. The court held that such political activity may be regulated, provided that California has a constitutionally sufficient interest in doing so. The court remanded the case back to U.S. District Court Judge Frank Damrell to decide that question, but indicated that the lower court could very well conclude the interest is sufficiently compelling to survive strict scrutiny.

"The opinion has strong language which highlights the public's compelling interest in ballot measure disclosure: 'Given the complexity of the issues and the unwillingness of much of the electorate to independently study the propriety of individual ballot measures,' the court ruled, 'we think being able to evaluate who is doing the talking is of great importance'."

A copy of the court's decision is available on the FPPC's web site at the following link:

<http://www.fppc.ca.gov/legal/prolife2.pdf>

Further details on the status of the case can be found in the Litigation Report on page 20.

Future Meeting Dates

The Fair Political Practices Commission currently is scheduled to meet on the following dates during the remainder of 2003:

- Thursday, October 2
- Thursday, December 4

Meetings generally begin at 9:30 a.m. in the FPPC's 8th floor hearing room at 428 J Street, Sacramento, but check the FPPC web site regularly as dates and times can change.

Meeting Summaries

Summaries of actions at the Commission's regular monthly meetings are posted on the Commission's web site at:

<http://www.fppc.ca.gov/index.html?id=63>.

See the following page for a listing of enforcement actions.

Enforcement Summaries

August Commission Meeting

Campaign Mass Mailing Sender Identification Violation

AMAC Information & Graphics and William MacAlpin, FPPC No. 99/237. Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Jon Wroten. AMAC Information & Graphics is a political campaign company located in Redondo Beach. William MacAlpin is the owner of AMAC. In April 1999, an anonymous candidate or committee paid AMAC and MacAlpin to process and mail a mass mailing to voters in Inglewood that depicted elected officials and candidates as apes and monkeys. The mass mailing did not contain any sender identification. The actions in processing and mailing the mass mailing, even though it lacked the required sender identification, negligently caused the anonymous candidate or committee to send a mass mailing without sender identification, in violation of Section 83116.5 (1 count). \$2,000 fine.

Campaign Reporting Violations

United Food and Commercial Workers Issue Education Fund, John Perez, and John Sperry, FPPC No. 01/388. Staff: Senior Commission Counsel Melodee A. Mathay and Accounting Specialist Bill Marland. United Food

(Continued on page 7)

(Continued from page 6)

and Commercial Workers Issue Education Fund is a state general-purpose recipient committee, sponsored by the United Food and Commercial Workers Region 8 States Council. The respondents are located in Orange County. John Perez and John Sperry served as treasurers for the committee. Respondents failed to timely disclose eight late independent expenditures in properly filed late independent expenditure reports, in violation of Section 84204(a); failed to timely file three supplemental independent expenditure reports, in violation of Section 84203.5(a); failed to properly report contributions of \$100 or more on a pre-election campaign statement, in violation of Section 84211(f); failed to properly disclose miscellaneous receipts on a pre-election campaign statement, in violation of Section 84211(k); and failed to disclose a late contribution on a properly filed late contribution report, in violation of Section 84203(a) (14 counts). \$23,000 fine.

United Public Employees Local 790 COPE: Non-Candidate Committee; United Public Employees Local 790 COPE: Candidate Committee; and Josephine Mooney; FPPC No.

01/248. Staff: Commission Counsel Elizabeth K. Conti and Investigator Larry Phoenix. The committees are state general-purpose recipient committees sponsored by the United Public Employees Local 790 COPE, a labor organization based in Oakland. Josephine Mooney was the treasurer for the committees. Respondents failed to disclose three late contributions in properly filed late contribution reports, in violation of Section 84203(a) (3 counts). \$1,500 fine.

Service Employees International Union, FPPC No. 01/392. Staff: Commission Counsel Elizabeth K. Conti and Investigator Larry Phoenix. Service Employees International Union, an AFL-CIO labor organization headquartered in Washington, D. C., failed to disclose one late contribution in a properly filed late contribution report, in violation of Section 84203(a) (1 count). \$2,000 fine.

Benjamin S. Elias, Ben S. Elias for Assembly and Armen Elias, FPPC No. 00/62. Staff: Commission Counsel Jeffery A. Sly and Investigator III Dan Schek. Benjamin Elias was an unsuccessful candidate for the California State Assem-

bly, Eighteenth District, in the June 1998 primary election. Ben S. Elias for Assembly was the controlled committee of Elias. Armen Elias was the treasurer of the committee. The respondents failed to timely file a semi-annual campaign statement, in violation of Government Code section 84200(a) (1 count). \$1,000 fine.

Olsen Power Partners; FPPC No. 02/715.

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Respondent Olsen Power Partners is a business that owns and operates a hydroelectric facility, located in Annapolis, Md. The respondent failed to disclose a late contribution in a properly filed late contribution report, in violation of Section 84203(a) (1 count). \$1,500 fine.

Synergics Telemetry, LLC; FPPC No. 02/718.

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Synergics Telemetry, LLC is a limited liability corporation engaged in the telecommunications business, headquartered in Annapolis, Md. The respondent failed to disclose two late contributions in properly filed late contribution reports, in violation of Section 84203(a) (2 counts). \$3,300 fine.

SEI Violations

Denise Johnson, FPPC No. 02/61. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Denise Johnson, a designated employee of the California Department of Motor Vehicles, failed to timely file a leaving-office Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). \$300 fine.

Gopal Chaturvedi, FPPC No. 01/741. Staff: Commission Counsel Jeffery A. Sly and Investigator III Dan Schek. Gopal Chaturvedi, a member of the Respiratory Care Examining Committee for the California Department of Consumer Affairs, failed to timely file an assuming-office Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). \$600 fine.

Michael L. Torr; FPPC No. 01/626. Staff: Commission Counsel William J. Lenkeit and Investi-

(Continued on page 8)

(Continued from page 7)

gator III Dan Schek. Michael Torr, a member of the governing board of the Sweetwater Springs Water District in Sonoma County, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). \$1,000 fine.

David Williamson, FPPC No. 02/404. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. David Williamson, a member of the Berkeley Energy Commission, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). \$1,200 fine.

George Engasser, FPPC No. 02/90. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. The commission issued a Default Decision and Order in the matter of George Engasser, a member of the Oroville Parks Commission, who failed to timely file a 2000 annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). \$1,200 fine.

Major Donor - Streamlined Procedure

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Alan Haddon, Investigator III Jon Wroten, and Political Reform Consultant Maryann Kvasager. The following persons and entities have entered into stipulations for failing to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section 84200:

- **Arturo & Barbara Sneider, FPPC No. 2003-308.** Arturo & Barbara Sneider of Los Angeles failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Diana Martin, FPPC No. 2003-310.** Diana Martin of Rolling Hills Estates failed to timely disclose contributions totaling \$19,300 (2 counts). \$800 fine.
- **Edythe Broad, FPPC No. 2003-311.** Edythe Broad of Los Angeles failed to timely disclose contributions totaling \$16,000 (2 counts). \$800 fine.

- **Herbert A. Allen, FPPC No. 2003-314.** Herbert A. Allen of New York, N.Y., failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **Dr. Jerrold A. Hiura, FPPC No. 2003-315.** Dr. Jerrold A. Hiura of Los Gatos failed to timely disclose contributions totaling \$21,250 (2 counts). \$800 fine.
- **John F. Nickoll, FPPC No. 2003-316.** John F. Nickoll of Los Angeles failed to timely disclose contributions totaling \$22,000 (1 count). \$400 fine.
- **Peter K. Barker, FPPC No. 2003-318.** Peter K. Barker of Montecito failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **William & Lee Bell, FPPC No. 2003-320.** William & Lee Bell of Beverly Hills failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Liquidity Financial Group, FPPC No. 2003-321.** Liquidity Financial Group of Pleasanton failed to timely disclose contributions totaling \$15,000 (1 count). \$400 fine.
- **Paxson Communications Corporation, FPPC No. 2003-323.** Paxson Communications Corporation of West Palm Beach, Fla., failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **Snelling Personnel Services, FPPC No. 2003-324.** Snelling Personnel Services of Dallas, Texas, failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **2228 Union Street Investors, FPPC No. 2003-325.** 2228 Union Street Investors of San Francisco failed to timely disclose contributions totaling \$15,500 (1 count). \$400 fine.

(Continued on page 9)

(Continued from page 8)

- **AV Consultants, Inc., FPPC No. 2003-326.** AV Consultants, Inc. of Wayne, Pa., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Advertising Display Systems, FPPC No. 2003-327.** Advertising Display Systems of Burlingame failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Applied Materials, FPPC No. 2003-328.** Applied Materials of Santa Clara failed to timely disclose contributions totaling \$27,400 (1 count). \$400 fine.
- **Aribo Corporation, FPPC No. 2003-329.** Aribo Corporation of Marina del Rey failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Lawrence J. Ellison, FPPC No. 2003-333.** Lawrence J. Ellison of Redwood Shores failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **HACH Company, FPPC No. 2003-334.** HACH Company of Loveland, Colo., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **HNR Framing Systems, Inc., FPPC No. 2003-335.** HNR Framing Systems, Inc., of Poway failed to timely disclose contributions totaling \$16,000 (1 count). \$400 fine.
- **MBK Homes, Ltd., FPPC No. 2003-337.** MBK Homes, Ltd., of Irvine failed to timely disclose contributions totaling \$17,000 (1 count). \$400 fine.
- **Oliver McMillan, LLC, FPPC No. 2003-338.** Oliver McMillan, LLC, of San Diego failed to timely disclose contributions totaling \$20,000 (1 count). \$400 fine.
- **Jerry Neil Paul, FPPC No. 2003-340.** Jerry Neil Paul of Westlake Village failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **Valley View Casino, FPPC No. 2003-342.** Valley View Casino of Valley Center failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **Jackson Wen, FPPC No. 2003-343.** Jackson Wen of West Covina failed to timely disclose contributions totaling \$19,500 (1 count). \$400 fine.
- **Annette M. Williams, FPPC No. 2003-344.** Annette M. Williams of Grand Terrace failed to timely disclose contributions totaling \$10,500 (1 count). \$400 fine.
- **Williams Scotsman, FPPC No. 2003-345.** Williams Scotsman of Vacaville failed to timely disclose contributions totaling \$18,100 (1 count). \$581 fine.
- **Robert Yu, FPPC No. 2003-346.** Robert Yu of Alhambra failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Z Valet, Inc., FPPC No. 2003-347.** Z Valet, Inc. of Los Angeles failed to timely disclose contributions totaling \$15,000 (1 count). \$400 fine.
- **AguaClara, LLC, FPPC No. 2003-371.** AguaClara, LLC, of San Diego failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **Martha A. Bell, FPPC No. 2003-373.** Martha A. Bell of Rancho Santa Fe failed to timely disclose contributions totaling \$15,350 (1 count). \$400 fine.
- **Bentley Systems, Inc., FPPC No. 2003-374.** Bentley Systems, Inc., of Exton, Pa., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.

(Continued on page 10)

(Continued from page 9)

- **Bernard B. Roth & Affiliate World Oil Corporation, FPPC No. 2003-375.** Bernard B. Roth & Affiliate World Oil Corporation of South Gate failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **Bosa Development California, Inc., FPPC No. 2003-376.** Bosa Development California, Inc., of San Diego failed to timely disclose contributions totaling \$25,000 (1 count). \$400 fine.
- **Breadboard Enterprises, FPPC No. 2003-377.** Breadboard Enterprises of San Francisco failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Peter L. Bittenwieser, FPPC No. 2003-380.** Peter L. Bittenwieser of Philadelphia, Pa., failed to timely disclose contributions totaling \$12,500 (1 count). \$400 fine.
- **C.C. Myers, Inc., FPPC No. 2003-381.** C.C. Myers, Inc., of Rancho Cordova failed to timely disclose contributions totaling \$15,000 (1 count). \$400 fine.
- **C.W. Poss, Inc., FPPC No. 2003-382.** C. W. Poss, Inc., of Fullerton failed to timely disclose contributions totaling \$25,000 (2 counts). \$889 fine.
- **Russell L. Carson, FPPC No. 2003-386.** Russell L. Carson of New York, N.Y., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Christopher J. Conway, FPPC No. 2003-389.** Christopher J. Conway of Dove Canyon failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Donal J. Murphy, FPPC No. 2003-391.** Donal J. Murphy of Yorktown Heights, N. Y., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Larry N. Feinberg, FPPC No. 2003-395.** Larry N. Feinberg of Greenwich, Conn., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Harold R. & Diana Frank, FPPC No. 2003-396.** Harold R. & Diana Frank of Goleta failed to timely disclose contributions totaling \$16,200 (1 count). \$400 fine.
- **Steve Gorlin, FPPC No. 2003-398.** Steve Gorlin of Destin, Fla., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Michael Henson, FPPC No. 2003-400.** Michael Henson of Coto de Laza failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **International Creative Management, Inc., FPPC No. 2003-401.** International Creative Management, Inc., of Beverly Hills failed to timely disclose contributions totaling \$10,150 (1 count). \$400 fine.
- **JLD Staffing, Inc., dba HR Staffing, Inc., FPPC No. 2003-403.** JLD Staffing, Inc., dba HR Staffing, Inc., of Thousand Oaks failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Kinetics Group, Inc., FPPC No. 2003-406.** Kinetics Group, Inc., of Santa Clara failed to timely disclose contributions totaling \$26,000 (1 count). \$400 fine.
- **Ronald K. Loder, FPPC No. 2003-409.** Ronald K. Loder of Laguna Niguel failed to timely disclose contributions totaling \$20,000 (1 count). \$400 fine.
- **McSherry & Hudson, FPPC No. 2003-412.** McSherry & Hudson of Watsonville failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.

(Continued on page 11)

(Continued from page 10)

- **Meritage Homes of Northern California, Inc., FPPC No. 2003-413.** Meritage Homes of Northern California, Inc., of Concord failed to timely disclose contributions totaling \$39,660 (1 count). \$400 fine.
- **Greg C. Mosher, FPPC No. 2003-415.** Greg C. Mosher of Castle Rock, Colo., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Opus West Corporation, FPPC No. 2003-417.** Opus West Corporation of Phoenix, Ariz., failed to timely disclose contributions totaling \$15,000 (1 count). \$400 fine.
- **Lawrence A. Post, FPPC No. 2003-419.** Lawrence A. Post of Beverly Hills failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Provender Capital Group, LLC, FPPC No. 2003-420.** Provender Capital Group, LLC, of New York, N.Y., failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **J. Miles Reiter, FPPC No. 2003-422.** J. Miles Reiter of Aromas failed to timely disclose contributions totaling \$26,000 (1 count). \$400 fine.
- **Reynen & Bardis Development, LLC, FPPC No. 2003-423.** Reynen & Bardis Development, LLC, of Sacramento failed to timely disclose contributions totaling \$46,849 (1 count). \$446.85 fine.
- **John A. Schneider, FPPC No. 2003-426.** John A. Schneider of New York, N.Y., failed to timely disclose contributions totaling \$27,000 (1 count). \$400 fine.
- **Daniel L. Skaff, FPPC No. 2003-427.** Daniel L. Skaff of Sonoma failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.

- **Taisei Construction Corporation, FPPC No. 2003-428.** Taisei Construction Corporation of Cypress failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Trevor D. Traina, FPPC No. 2003-429.** Trevor D. Traina of San Francisco failed to timely disclose contributions totaling \$10,000 (1 count). \$400 fine.
- **Van Wagner Communications, LLC, FPPC No. 2003-432.** Van Wagner Communications, LLC, of Studio City failed to timely disclose contributions totaling \$40,000 (1 count). \$400 fine.
- **Verner, Liipfert, Bernhard, McPherson & Hand, Chartered, FPPC No. 2003-433.** Verner, Liipfert, Bernhard, McPherson & Hand, Chartered of Washington, DC failed to timely disclose contributions totaling \$15,000 (2 counts). \$800 fine.
- **Wackenhut Corrections Corporation, FPPC No. 2003-434.** Wackenhut Corrections Corporation of Boca Raton, Florida failed to timely disclose contributions totaling \$19,750 (1 count). \$400 fine.
- **Webb Survivor's Trust, FPPC No. 2003-435.** Webb Survivor's Trust of Beverly Hills failed to timely disclose contributions totaling \$20,000 (1 count). \$400 fine.

Failure to Timely File Major Donor Campaign Statements. Staff: Chief Investigator Alan Hernon, Investigator III Jon Wroten, and Political Reform Consultant Maryann Kvasager. The following persons and entities have failed to file major donor campaign statements that were due during the calendar year of 2002, in violation of Government Code Section 84200, and failing to electronically file major donor statements for the calendar year 2002, in violation of Government Code Section 84605:

(Continued on page 12)

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- **tBP Architecture, FPPC No. 2003-349.** tBP Architecture of Newport Beach failed to timely disclose contributions totaling \$66,750 (2 counts). \$1,467.50 fine.
- **Glenn Doshay, FPPC No. 2003-392.** Glenn Doshay of Rancho Santa Fe failed to timely disclose contributions totaling \$50,000 (1 count). \$1,300 fine.
- **United Rentals, Inc., FPPC No. 2003-431.** United Rentals, Inc of Greenwich, Conn., failed to timely disclose contributions totaling \$50,000 (1 count). \$1,300 fine.

July Commission Meeting

Campaign Reporting Violations

Arturo Reyes and the Committee to Elect Arturo Reyes, FPPC No. 01/591. Staff: Commission Counsel Steven Meinrath and Investigator III Sandra Buckner. The commission issued a default decision and order regarding Arturo Reyes, a member of the Lynwood City Council, and the Committee to Elect Arturo Reyes, who failed to timely file pre-election campaign disclosure statements, in violation of Government Code Section 84200.8; failed to timely file a semi-annual campaign disclosure statement, in violation of Government Code Section 84200(a); failed to establish a campaign bank account, in violation of Government Code Section 85201; failed to report campaign contributions, in violation of Government Code Section 84211; made a campaign expenditure not from a campaign bank account, in violation of Government Code Section 85201; and failed to maintain detailed records and accounts necessary to prepare campaign statements, in violation of Government Code Section 84104 (12 counts). \$24,000 fine.

Robert "Bob" Pacheco, Committee to Elect Bob Pacheco to State Assembly, Jacobo "Jack" Vela; FPPC No. 00/162. Staff: Commission Counsel Steven Meinrath and Accounting Specialist Luz Bonetti. The respondents failed to file a late contribution report to disclose a

\$21,000 loan from Robert Pacheco (R-Walnut, Los Angeles County) to the committee, in violation of Government Code Section 84203; failed to timely disclose campaign expenditures totaling \$43,794.91, in violation of Government Code Section 84211; and failed to disclose campaign contributions totaling \$83,646.78, in violation of Government Code Section 84211 (7 counts). \$14,000 fine.

Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Maria Elena Durazo; FPPC No. 01/186.

Staff: Commission Counsel Jennie Eddy and Investigator III Dan Schek. Hotel Employees and Restaurant Employees Union, Local 11, Political Action Committee is a state general-purpose recipient committee sponsored by the Hotel Employees and Restaurant Employees Union, Local 11, in Los Angeles. Maria Elena Durazo was the treasurer for the committee. The respondents committed six violations of the Act by: failing to timely file a statement of organization, in violation of Section 84101(a); failing to file a pre-election campaign statement, in violation of Section 84200.7(a); and failing to disclose independent expenditures on campaign statements and late independent expenditure reports in violation of Sections 84211(j) and 84204 (6 counts). \$9,250 fine.

Paula Kent Meehan; FPPC No. 02/711. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Paula Kent Meehan is the chairman and president of Kenquest, Inc., in Beverly Hills. Meehan failed to file three late contribution reports, in violation of Section 84203 (a) (3 counts). \$3,600 fine.

No on Prop. 35 et al, FPPC No. 01/702. Staff: Commission Counsel Julia Bilaver and Investigator III Jon Wroten. "No on Prop. 35 – A coalition of engineers, peace officers, firefighters, taxpayers, public servants, small businesses, teachers and senior citizens" was a ballot measure committee sponsored by Professional Engineers in California Government, headquartered in Sacramento. The committee was primarily formed to oppose Proposition 35 in the Nov. 7, 2000, general election. Bruce McGinnis was the treasurer

(Continued on page 13)

(Continued from page 12)

of the Committee. "No on Prop. 35" failed to report on pre-election and post-election campaign statements approximately \$3.6 million in payments made to sub-vendors, in violation of Government Code Section 84303 (14 counts). \$36,000 fine.

Milan Panic; FPPC No. 02/772. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Milan Panic is the former chairman of the board and chief executive officer of ICN Pharmaceuticals, Inc., of Costa Mesa. Panic failed to file two late contribution reports in violation of Section 84203(a) (2 counts). \$2,250 fine.

ICN Pharmaceuticals, Inc.; FPPC No. 02/707. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. ICN Pharmaceuticals, Inc., of Costa Mesa, failed to file two late contribution reports, in violation of Section 84203(a) (2 counts). \$4,350 fine.

Anybody But Hamilton and Monica Romeyn; FPPC No. 98/248. Staff: Commission Counsel William J. Lenkeit and Investigator III Dan Schek. "Anybody But Hamilton" was a committee formed in Sonoma County to oppose Jane Hamilton for county supervisor. Monica Romeyn was the committee treasurer. The respondents committed three violations of the Act by: failing to timely file a statement of organization, in violation of Government Code Section 84101(a); failing to file a pre-election campaign statement, in violation of Government Code Section 84200.5(a); and failing to file a late independent expenditure report, in violation of Government Code Section 84204(a) (3 counts). \$5,500 fine.

SEI Violations

Dale Cumpston; FPPC No. 01/339. Staff: Commission Counsel Jeffery A. Sly. Dale Cumpston, a member of the Tehama County Building Inspection Board of Appeals, failed to timely file a 2000 annual Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). \$600 fine.

Coby King; FPPC No. 02/433. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator

Mary Ann Kvasager. Coby King, a member of the California Council on Criminal Justice, failed to timely file an assuming-office Statement of Economic Interests, in violation of Government Code Section 87300 (1 count). \$400 fine.

Martha Uribes; FPPC No. 02/106. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Martha Uribes, a former executive secretary for the California State Assembly, and press secretary for the California State Senate, failed to timely file a leaving-office Statement of Economic Interests and an assuming-office Statement of Economic Interests, in violation of Government Code Section 87300 (2 counts). \$400 fine.

June Commission Meeting

Conflict of Interest Violations

Elihu Harris, FPPC No. 98/271. Staff: Commission Counsel William Lenkeit and Julia Bilaver, and Supervising Investigator Sue Straine. As the mayor of the City of Oakland, Elihu Harris made a governmental decision in which he had a financial interest, by appointing his spouse to the Oakland Port Commission, in violation of Government Code 87100 (1 count). \$2,000 fine.

Lobbying Violations

Western Alliance of Farmworker Advocates, Inc., FPPC No. 01/560. Staff: Commission Counsel Julia Bilaver and Investigator Charlie Bilyeu.

Western Alliance of Farmworker Advocates, Inc. of Santa Rosa, a nonprofit public benefit corporation and a registered lobbyist employer, failed to timely file 12 paper lobbyist employer reports, in violation of Government Code section 86117, subdivision (a), and failure to timely file four electronic lobbyist employer reports, in violation of Government Code section 84605(d) (16 counts). \$22,000 fine.

(Continued on page 14)

(Continued from page 13)

Campaign Reporting Violations

Robert Kudler and K&W Aviation, FPPC No. 01/443. Staff: Commission Counsel Steven Meinrath and Investigator III Sandra Buckner. Robert Kudler, sole owner of K&W Aviation of Lynwood, made independent expenditures with funds from K&W Aviation, in support of a slate of four candidates running for Lynwood City Council. Kudler failed to report late independent expenditures, in violation of Government Code section 84204 (5 counts), failed to file a semi-annual campaign statement report, in violation of Government Code section 84200(b) (1 count), and failed to maintain required campaign records, in violation of Government Code section 84104 (1 count). \$12,000 fine.

L.A. City and County School Employees Union, Local 99 C.O.P.E. and Janett Humphries, FPPC No. 01/187. Staff: Commission Counsel Jennie Eddy and Investigator III Dan Schek. Los Angeles City and County School Employees Union, Local 99 Council On Political Education (C.O.P.E.) was a state general purpose recipient committee sponsored by the L.A. City and County School Employees Union, Local 99. Janett L. Humphries was the treasurer for the committee. Respondents failed to timely disclose seven late independent expenditures in properly filed late independent expenditure reports, in violation of Section 84204(a) (7 counts); failed to timely file a supplemental independent expenditure report, in violation of Section 84203.5(a) (1 count); failed to disclose contributions of \$100 or more on a pre-election campaign statement, in violation of Section 84211 (1 count); and failed to disclose a late contribution in a properly filed late contribution report, in violation of Section 84203(a) (1 count). \$5,500 fine.

Gordon A. Galvan and the Committee to Elect Gordon Galvan, FPPC No. 00/670. Staff: Commission Counsel Jennie Eddy. Gordon A. Galvan is a former San Leandro City Council member. The Committee to Elect Gordon Galvan was the controlled committee of Galvan. Respondents committed 10 violations of the Act by: failing to disclose contributions during a semi-annual reporting period, in violation of Section 84211(f) (1

count); failing to disclose expenditures for two pre-election reporting periods and two semi-annual reporting periods, in violation of Section 84211(j)(5) (4 counts); failing to disclose two late contributions, in violation of Section 84203(a) (2 counts); and failing to keep required campaign records necessary to prepare three campaign statements, in violation of Section 84104 (3 counts). \$11,250 fine.

SEI Violations

Julie Lopez Dad, FPPC No. 01/474. Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Dan Schek. Julie Lopez Dad, a member of the Planning Commission for the City of Santa Monica, failed to timely file her 2000 annual Statement of Economic Interests, in violation of Government Code section 87203 (1 count). \$1,000 fine.

Maria Villaseñor, FPPC No. 02/403. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Maria Villaseñor, a member of the Civic Arts Commission for the City of Berkeley, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code section 87300 (1 count). \$200 fine.

Ronald Puls, FPPC No. 02/440. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Ronald Puls, a member of the Housing and Redevelopment Commission for the City of Vallejo, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code section 87300 (1 count). \$200 fine.

Derek Rhody, FPPC No. 02/544. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Derek Rhody, a member of the California Rice Commission, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code section 87300 (1 count). \$200 fine.

Cynthia Crann, FPPC No. 02/370. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator

(Continued on page 15)

(Continued from page 14)

nator Mary Ann Kvasager. Cynthia Crann, a director on the Westport County Water Board for the County of Mendocino, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code section 87300 (1 count). \$200 fine.

Michael Rue, FPPC No. 02/543. Staff: Commission Counsel Jeffery A. Sly and SEI Coordinator Mary Ann Kvasager. Michael Rue, a member of the California Rice Commission, failed to timely file a 2001 annual Statement of Economic Interests, in violation of Government Code section 87300 (1 count). \$300 fine.

May Commission Meeting

Conflict of Interest

D. Barton Doyle, FPPC No. 00/045. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Dan Schek. D. Barton Doyle, a member of the Sierra Madre City Council from April 1996 until the present time, made and participated in making a governmental decision in which he knew or had reason to know that he had a financial interest, by voting as a member of the Sierra Madre City Council to expand and fund the expansion of Utility District #2, in violation of Section 87100 of the Government Code (1 count). \$1,500 fine.

Campaign Money Laundering

Andres Lujan, Jr., FPPC No. 02/185. Staff: Commission Counsel Julia Bilaver and Investigator III Sandra Buckner. Andres Lujan, Jr. made four contributions to Ruben Diaz, an unsuccessful candidate for Santa Clara County Sheriff, in the November 3, 1998, county municipal election, in a name other than his own, in violation of Government Code section 84301 (4 counts). \$7,200 fine.

Campaign Reporting Violations

Roger Kirwan, FPPC No. 02/708. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Roger Kirwan, President of Wood-

side Financial Services in Newport Beach, failed to disclose, in a late contribution report, a \$10,000 late contribution, in violation of Section 84203(a) (1 count). \$2,500 fine.

The Doctors' Company Political Action Committee and James Cathcart, FPPC No. 99/727. Staff: Commission Counsel Julia Bilaver and Accounting Specialist Bill Marland. The Doctors' Company Political Action Committee ("DOCPAC") is a state general purpose recipient committee sponsored by The Doctors' Company, a medical malpractice insurance carrier. Respondent James Cathcart is the treasurer of DOCPAC. On a first pre-election campaign statement covering the reporting period Jan. 1, 1998, through March 17, 1998, Respondents failed to properly disclose a \$62,152 contribution from The Doctors' Company, in violation of Government Code section 84211(f) (1 count). \$2,000 fine.

Orrin Cocks, FPPC No. 01/183. Staff: Commission Counsel William L. Williams, Jr., and Accounting Specialist Bill Marland. Orrin Cocks was an unsuccessful candidate for San Luis Obispo County Supervisor in the 1998 Consolidated General Election. Respondent failed to disclose the recipient of campaign expenditures of more than \$100, in violation of Government Code section 84211, subdivision (j) (1 Count). Respondent made two payments of campaign expenses without depositing the funds in the single designated campaign bank account, in violation of Government Code section 85201 (2 counts). \$4,000 fine.

Gordon McGinnis, Friends of Gordon McGinnis, and Dena McGinnis, FPPC No. 00/619. Staff: Senior Commission Counsel Melodee A. Mathay and Investigator III Dan Schek. Gordon McGinnis was an unsuccessful candidate for the San Bernardino County Board of Supervisors in the March 7, 2000 county election. Respondent Friends of Gordon McGinnis was his controlled committee, and Respondent Dena McGinnis served as the treasurer of the committee. Respondents failed to timely file a semi-annual campaign statement after the county election, in violation of Section 84200, subdivision (a) (1 count). \$2,000 fine.

(Continued on page 16)

(Continued from page 15)

Signature Properties, Inc., FPPC No. 02/806.

Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Signature Properties, Inc. is a California corporation, headquartered in Pleasanton, engaged in the business of building homes. Respondent failed to disclose, in a late contribution report, a \$10,000 late contribution to The Lockyer Committee, in violation of Section 84203, subdivision (a) (1 count). \$1,500 fine.

Jaroth, Inc., FPPC No. 02/1055. Staff: Commission Counsel Jennie Eddy and Investigator III Jon Wroten. Jaroth Inc. is a corporation engaged in the telecommunications business headquartered in San Leandro. Respondent failed to disclose, in a late contribution report, a \$10,000 late contribution to the Bill Simon for Governor Committee, in violation of Section 84203(a) (1 count). \$1,500 fine.

SEI Violations

Margaret Sabovich, FPPC No. 01/0432. Staff: Commission Counsel Elizabeth K. Conti and Investigator III Dan Schek. Margaret Sabovich, an Associate Development Specialist with the California Technology, Trade and Commerce Agency, failed to timely file a 2000 annual statement of economic interests, in violation of Government Code section 87300 (one count). \$600 fine.

Daniel Sanchez, FPPC No. 02/402. Staff: Commission Counsel Jeffery A. Sly and Political Reform Consultant Mary Ann Kvasager. Daniel Sanchez, a Commissioner on the Community Health Commission for the City of Berkeley, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$200 fine.

Donald Ray Wesson, FPPC No. 01/550.

Staff: Commission Counsel Elizabeth K. Conti and Investigator III Dan Schek. Donald Ray Wesson, a member of the Planning Commission for the City of Delano, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$300 fine.

Glen Dahlbacka, FPPC No. 01/412. Staff: Commission Counsel Jeffery A. Sly. Glen Dahlbacka, a Senior Program Manager for the Lawrence Berkeley National Laboratory, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$1,500 fine.

Elizabeth Pidgeon-Ontis, FPPC No. 02/441.

Staff: Commission Counsel Jeffery A. Sly and Political Reform Consultant Mary Ann Kvasager. Elizabeth Pidgeon-Ontis, a Commissioner on the Architectural Heritage & Landmarks Commission for the City of Vallejo, failed to timely file a 2001 annual statement of economic interests, in violation of Government Code section 87300 (1 count). \$200 fine.

David Graves, FPPC No. 01/414. Staff: Commission Counsel Jeffery A. Sly. David Graves, a member of the Planning Commission for Napa County, failed to timely file a 2000 annual statement of economic interests, in violation of Government Code section 87203 (1 count). \$200 fine.

SEI Disclosure Violations

Thomas P. Allen, Jr., FPPC No. 99/836. Staff: Senior Commission Counsel Deanne Canar and Investigator III Sandra Buckner. Thomas P. Allen, Jr., a former Los Angeles County Superior Court judge, failed to properly disclose his investments on two consecutive annual statements of economic interests, in violation of sections 87203 and 87206 of the Government Code (2 counts). \$4,000 fine.

Late Contribution Report Violations - Streamlined Program

Failure to Timely File Late Contribution Reports – Proactive Program. Staff: Chief Investigator Alan Herndon, Investigator III Jon Wroten, and Political Reform Consultant Mary Ann Kvasager. The following persons and entities have entered into stipulations for failure to file late contribution reports, in violation of Government Code Section 84203:

(Continued on page 17)

...Enforcement Summaries

(Continued from page 16)

King's County Truck Lines, FPPC No. 2003-0042. King's County Truck Lines of Tulare failed to timely disclose a late contribution totaling \$10,000. (1 count.) \$1,500 fine.

Milk Producers Council, FPPC No. 2003-0005. Milk Producers Council of Chino failed to timely disclose a late contribution totaling \$10,000. (1 count.) \$1,500 fine.

SEIU Local 998 PAC, FPPC No. 2003-0009. SEIU Local 998 PAC of Ventura failed to timely disclose late contributions totaling \$13,500. (3 counts.) \$2,025 fine.

Gemini Advisors, FPPC No. 2002-1029. Gemini Advisors, Inc. of San Francisco failed to timely disclose a late contribution totaling \$25,000. (1 count.) \$3,500 fine.

Civil Litigation Enforcement Action

The Fair Political Practices Commission has reached an \$80,000 civil settlement with the Democratic Congressional Campaign Committee, and its former treasurer, Janica Kyriacopoulos, regarding campaign disclosure violations by the DCCC in connection with the November 7, 2000, general election.

The suit alleged that the DCCC failed to file a semi-annual campaign report disclosing \$3,123,740 in contributions and expenditures, and failed to file a late contribution report disclosing a \$10,000 late contribution. In addition, it failed to file either of the reports electronically.

A civil lawsuit was filed by the FPPC in Sacramento Superior Court on April 22, 2003. The final judgment, based on a stipulation signed by the

FPPC, Kyriacopoulos, and current DCCC treasurer Ann Marie Habershaw, was approved April 22, 2003, by Superior Court Judge Loren McMaster.

According to the complaint, during the second semi-annual reporting period of 2000, the DCCC received approximately 1,647 contributions totaling \$3,123,740, and used that money to make approximately 27 contributions to various Democratic candidates and committees throughout California. As a recipient committee, the DCCC was required to file a semi-annual campaign statement by January 31, 2001, reporting its campaign activity during the second half of 2000, but it failed to do so.

The DCCC also made a \$10,000 late contribution prior to the November 7, 2000, general election to the Assembly Democratic Leadership 2000 Committee, a controlled committee of then-Assembly Speaker Robert Hertzberg. Since this late contribution was made within the last 16 days prior to the general election, it was a "late contribution" that was required to be disclosed by the DCCC within 24 hours, which the DCCC failed to do.

Finally, the DCCC failed to file campaign statements electronically with the Secretary of State, as required by the Political Reform Act (PRA), in addition to filing the required statements in a paper format.

The FPPC discovered the violations while implementing a proactive enforcement program designed to ensure compliance with the late-contribution reporting requirements of the Political Reform Act. The Assembly Democratic Leadership 2000 Committee disclosed the receipt of the DCCC contribution as required by the PRA.

Commission Counsel Jennie Eddy and Investigator III Jon Wroten handled the case for the FPPC.



Clerks' Corner

Some Commonly Asked Questions

This quarter we are focusing on issues of interest to those clerks who are gearing up for elections this fall and next spring. Additionally, we are addressing questions we received during the July 31 semi-annual campaign disclosure filing period.

Q. *There is a billboard in our city opposing a measure on the ballot. The proponents of the measure are asking to see the campaign filings for the committee posting the billboard. I have nothing on file. What are my obligations to seek out this group?*

A. You have no obligation to conduct an investigation to determine who placed the billboard. You should direct any person wishing to file a complaint to the Fair Political Practices Commission. A complaint form is available on the FPPC web site (www.fppc.ca.gov).



Q. *Is the Statement of Economic Interests (Form 700) required of all candidates?*

A. No. Only those officials listed in Section 87200 (city council members, supervisors, etc) are required to complete a candidate's Form 700. Candidates for a school board or water district, for example, must complete the Form 700 only if the conflict of interest code for that agency requires candidates for that agency to file a Form 700.



Q. *Should all candidates be required to file the Form 470 short form when they file their declaration of candidacy?*

A. No. Only those candidates who will receive

less than \$1,000 in contributions and will make campaign expenditures of less than \$1,000 during an entire calendar year may file the Form 470. Candidates who will raise or spend \$1,000 or more will file the Form 460 on the pre-election and semi-annual filing deadlines.



Q. *An elected officeholder terminated her committee in March of this year. Does she file her subsequent semi-annual statements on a Form 470 or a Form 460 for the balance of the year?*

A. If the officeholder had a committee open during the calendar year, the officeholder must continue to file on the Form 460 campaign disclosure statement for the remainder of the calendar year. In the following year, the officeholder may need to file the Form 470 short form.



Q. *Is the Form 470 short form required of all elected officeholders who do not have committees?*

A. No. If an elected officeholder's salary is less than \$200 a month, the officeholder is not required to file the Form 470 as long as he or she has not received contributions or made election-related expenditures.



Q. *An elected officeholder did not have a committee and left office in March of 2003. However, he did receive a salary of \$200 or more a month. Does he have to file a Form 470 by July 31, 2003?*

A. Since this individual was an elected officeholder in 2003 and received a salary of \$200 or more per month, a Form 470 must be filed. It would be best to obtain it when the officeholder leaves office, but if it is not obtained at that time, then the Form 470 should be filed by July 31, 2003.

Clerks! The FPPC's toll-free advice line is also for you. Call 1-866-ASK-FPPC (1-866-275-3772) with your questions on filing and other issues.



Interim Filing Obligations for Members of Newly Created Boards or Commissions

Government Code section 87302.6 Regulation 18754

By Jeanette Turvill
FPPC Political Reform Consultant

Effective January 1, 2003, Government Code section 87302.6 provides that a member of a board or commission of a newly created agency that has yet to adopt a conflict-of-interest code must file a statement of economic interests with full disclosure during the time between the establishment of the board or commission and its adoption of a conflict of interest code.

The Commission adopted a regulation to implement this new legislation that specifies how boards or commissions are affected by the new legislation. The regulation, 18754, provides that:

- Members of boards and commissions that came into existence between January 1, 2003, and March 27, 2003, should have filed assuming office statements no later than April 26, 2003. (If these statements were not filed by that time, members should do so immediately.)
- Members of boards and commissions that came into existence after March 27, 2003, must file an assuming office statement not more than 30 days after assuming office.
- The statements are to be filed with either the newly created agency or code reviewing body for that agency, with the choice of filing location to be determined by the code reviewing body.

Members of boards and commissions will file assuming, annual, and leaving office statements under full disclosure, i.e., all interests in real

property, all investments, business positions and sources of income from sources located in or doing business in the agency's jurisdiction, until their position is covered under the new agency's conflict of interest code and that code goes into effect.

The new statute does not apply if the position is one described under Government Code section 87200 or if the board or commission does not possess decision-making authority.



Example:

On June 1, 2003, a county establishes a commission on election voting technology. The commission has decisionmaking authority, as defined in 2 Cal. Code Regs. Section 18701. The commission members are appointed before the county amends its conflict-of-interest code to include the new commission. Under the regulation, members are required to file a statement of economic interests within 30 days of assuming office with the Commission or the Board of Supervisors. This statement must disclose all interests in real property in the county, as well as investments, business positions, and sources of income.

On August 1, 2003, the county amends its conflict of interest code to require the members of this commission to report investments and business positions in and income from sources of the type that provide election-related products or services. The members of the commission would file pursuant to this more limited disclosure category on their next annual statement.

Litigation Report



Pending litigation report prepared for the Commission's September 3, 2003, meeting:

California ProLife Council, Inc. v. Karen Getman et al.

This case is a challenge to the Act's reporting requirements regarding express ballot measure advocacy. On October 24, 2000, the district court dismissed certain counts for standing and/or failure to state a claim. On January 22, 2002, the court denied a motion for summary judgment filed by plaintiff, and granted the FPPC's cross-motion. The Court entered judgment on January 22, 2002, and plaintiff filed a Notice of Appeal with the Ninth Circuit Court of Appeal. The appeal was briefed by the parties, and by Amici The Brennan Center for Justice and the National Voting Rights Institute (joining in one brief) and the states of Washington, Nevada and Oregon (joining in one brief). The court heard oral argument on February 11, and rendered its decision on May 8, 2003. The court rejected plaintiff's legal claims, affirming that the challenged statutes and regulations were not unconstitutionally vague, and that California may regulate ballot measure advocacy upon demonstrating a sufficient state interest in so doing. The court remanded the matter back to the trial court to determine whether California can establish a state interest sufficient to support its committee disclosure rules, and to determine whether the state's disclosure rules are properly tailored to that interest. A status conference was held before district judge Frank C. Damrell on July 18, 2003. A Scheduling Order has been served on the parties, as directed by the Ninth Circuit. A Mid-Litigation Status Conference is scheduled for October 3, 2003, and trial is set for May 24, 2004.

FPPC v. Californians Against Corruption et al

The case stems from the FPPC's 1995 administrative prosecution of a recall committee that failed to properly itemize its contributors, in violation of section 84211. In November 1995, the FPPC issued a default decision and order against defendants, imposing an administrative penalty of \$808,000. In January 1996, the FPPC brought a collection action in the Sacramento Superior Court to convert the penalty to a civil judgment. Defendants responded by filing a cross-complaint/petition for writ of mandate in the Superior Court, contesting the default decision. In July 2000, the Superior Court dismissed the defendants' pleadings for failure to prosecute. In March 2001, the Superior Court granted the FPPC's motion for summary judgment in the collection action, and entered judgment for \$808,000 plus interest. Defendants then filed this appeal in April 2001, before the Third District Court of Appeal. The matter was heard on April 22, 2003, and on May 29 the court issued its opinion affirming the Superior Court's decision. Defendants next filed a petition for review with the Supreme Court on July 9. The FPPC filed a response to this petition on July 29, 2003.

FPPC v. Agua Caliente Band of Cahuilla Indians, et al.

The FPPC alleges in this action that the Agua Caliente Band of Cahuilla Indians contributed more than \$7.5 million to California candidates and ballot measure campaigns between January 1 and December 31, 1998, but did not timely file major donor reports disclosing those contributions. The suit also alleges that the Agua Caliente Band failed to timely disclose more than \$1 million in late contributions made between July 1, 1998 and June 30, 2002. The FPPC later amended the complaint to add a cause of action alleging that the tribe failed to disclose a \$125,000 contribution to the Proposition 51 campaign on the November 5, 2002, ballot. The Agua Caliente Band has filed a Motion to Quash Service for Lack of Personal Jurisdiction, alleging that it is not required to comply with the Political Reform Act because of tribal sovereign immunity. A hearing on that motion was held on

(Continued on page 21)

...Litigation Report

(Continued from page 20)

January 8, 2003, before the Honorable Loren McMaster, in Department 53 of the Sacramento County Superior Court. On February 27, the court ruled in the Commission's favor. On April 7, 2003, the Agua Caliente Band filed a petition for writ of mandate in the Third Appellate District of the Court of Appeal challenging the decision of the trial court. The petition was summarily denied on April 24, 2003. On May 5, the Agua Caliente Band filed a Petition for Review in the California Supreme Court. On June 23, 2003, the court extended the deadline by which it must grant or deny review to August 1, 2003. On July 2, 2003, the court requested the FPPC to file an Answer to the Agua Caliente Band's Petition for Review by July 11, 2003. The FPPC filed its letter brief Answer on July 11, 2003. The Agua Caliente Band filed its reply on July 14, 2003. On July 23, 2003, the Supreme Court granted review and transferred the case to the Third District Court of Appeal, directing that court to vacate its original order and to issue an order directing the Sacramento County Superior Court to show cause why the relief sought in the Agua Caliente Band's petition should not be granted. The FPPC filed its return on August 19, 2003, and the Attorney General filed an amicus brief supporting the FPPC's position on that date. Prior to these developments, the Superior Court had scheduled a status conference for December 4, 2003.

FPPC v. Santa Rosa Indian Community of the Santa Rosa Rancheria

The FPPC alleges in this action that the Santa Rosa Indian Community of the Santa Rosa Rancheria (the Santa Rosa Rancheria) failed to file major donor semi-annual campaign statements in the years 1998, 1999, and 2001, involving more than \$500,000 in political contributions to statewide candidates and statewide propositions. The suit also alleges that the Santa Rosa Rancheria failed to disclose more than \$350,000 in late contributions made in October 1998. The complaint was originally filed on July 31, 2002,

and was amended to October 7, 2002. On January 17, 2003, the Santa Rosa Rancheria filed a Motion to Quash Service of Summons and First Amended Complaint. This motion is based upon its claim of tribal sovereign immunity from suit. The FPPC's response to the motion was filed on February 10, 2003. The matter was originally scheduled to be heard on February 20, 2003, but was continued to March 6, 2003, at the request of Defendant. The matter was heard on that date before the Honorable Joe S. Gray in Department 54 of the Sacramento County Superior Court, and on May 13, 2003, the court entered its order in favor of Defendant. On July 14, 2003, the FPPC filed its Notice of Appeal in the Sacramento County Superior Court, thus initiating an appeal of that court's decision in the Third District Court of Appeal.

McClintock v. Shelley, FPPC

Senator McClintock, a candidate for Governor in the upcoming October 7, 2003, special election, filed a petition for writ of mandate in Sacramento Superior Court seeking an order directing the Secretary of State to accept and publish his Candidate Statement to be published in the ballot pamphlet. The Secretary of State, on the basis of advice provided by the FPPC, advised the candidate he could not amend the original Form 501 to indicate acceptance of the expenditure limits, which he rejected in the original filing. The acceptance of expenditure limits is a necessary condition to having a candidate statement in the ballot pamphlet. The Attorney General is representing the Secretary of State. Not named in the Petition, the FPPC successfully moved the court for intervention as a Respondent and filed the same day an Opposition and Answer to the writ petition according to an expedited briefing schedule ordered by the court. [Update: A hearing on the matter was held on August 26, 2003, and the Superior Court denied the writ petition. The Court of Appeal upheld the lower court's ruling.]

Larry R. Daniels v. FPPC

This is a Petition for Writ of Mandate filed November 7, 2002, in the Sacramento County Superior Court, directed to the proposed decision of an

(Continued on page 22)

...Litigation Report

(Continued from page 21)

Administrative Law Judge which had not yet come before the Commission. The FPPC filed a preliminary opposition to the petition on November 12, 2002, asserting that Danielsén had failed to exhaust his administrative remedies, since the Commission has not yet adopted, modified or rejected the proposed decision of the Administrative Law Judge, rendering the Petition premature. The Commission adopted the proposed decision at its December 2002 meeting. The FPPC initiated collection and filed a motion to strike Danielsén's answer in that matter. A hearing on that is set for September 3, 2003. Danielsén set the writ matter for a hearing on October 3, 2003, before the Sacramento County Superior Court. The Commission is being represented in the writ matter by the Attorney General's office.

Cases drawn from previous litigation reports:

Danny L. Gamel et al. v. FPPC

In September 2001, the Commission adopted the proposed decision of an Administrative Law Judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of §§ 84300 – 84302. Plaintiffs contested this decision by Writ of Mandate in the Fresno County Superior Court. On March 21, 2002, the Court upheld the Commission's determination that Dan Gamel and Rudy Olmos violated the Act, but vacated the finding against Gamel Inc. Penalties assessed against Dan Gamel were affirmed but the Court remanded the case to the Commission for reconsideration of the penalty assessed against Mr. Olmos. Plaintiffs filed a notice of appeal of the Superior Court's decision regarding the fines assessed against Mr. Gamel and the findings against Mr. Olmos. The parties waived oral argument and the court issued its opinion on May 2, 2003, affirming the lower court decision on all points. The opinion became final on May 31, 2003, and it was not appealed by the June 10, 2003, deadline.

Levine et al. v. FPPC

On January 22, 2002, four publishers of "slate mail" filed suit in Federal District Court alleging that the Act's slate mail identification and disclosure requirements (§§ 84305.5 and 84305.6) violate their constitutional rights. The first of these statutes contains identification and disclaimer provisions in effect prior to enactment of Proposition 208, while § 84305.6 was introduced by Proposition 34. The Status Conference originally scheduled for April 29 was continued to June 10, 2002, to coincide with the hearing on plaintiffs' motion for preliminary injunction before Judge Lawrence K. Karlton. The hearing was conducted on July 29, 2002. The Court declined to conduct a Status Conference on the ground that its ruling on the preliminary injunction might affect pretrial scheduling. On September 25, 2002, the court entered a preliminary injunction barring FPPC enforcement of the challenged statutes against three of the four plaintiffs. The action has now been settled, and the preliminary injunction has become a permanent injunction, with final judgment entered accordingly.

FPPC Advice Summaries

Formal written advice provided pursuant to Government Code section 83114 subdivision (b) does not constitute an opinion of the Commission issued pursuant to Government Code section 83114 subdivision (a) nor a declaration of policy by the Commission. Formal written advice is the application of the law to a particular set of facts provided by the requestor. While this advice may provide guidance to others, the immunity provided by Government Code section 83114 subdivision (b) is limited to the requestor and to the specific facts contained in the formal written advice. (Cal. Code Regs., tit. 2, §18329, subd. (b)(7).)

Informal assistance may be provided to persons whose duties under the act are in question. (Cal. Code Regs., tit. 2, §18329, subd. (c).) In general, informal assistance, rather than formal written advice is provided when the requestor has questions concerning his or her duties, but no specific government decision is pending. (See Cal. Code Regs., tit. 2, §18329, subd. (b)(8)(D).)

Formal advice is identified by the file number beginning with an "A," while informal assistance is identified by the letter "I."

Campaign

David Bauer
State Assembly
Dated: May 6, 2003
File Number I-02-353

Various situations that arise involving the transfers of a candidate's campaign funds from pre-Proposition 34 committees to future committees of the same candidate are discussed in this letter. Also discussed is how newly adopted regulation 18530.2 operates under these various scenarios.

Stephen Ross
City of San Diego
Dated: May 15, 2003
File Number A-03-040

A city is advised that a potential ordinance establishing a separate bank account for legal defense funds would impermissibly conflict with the one bank account rule of Government Code section 85201.

James R. Sutton
AT&T Corporation/ Comcast Corporation
Dated: May 15, 2003
File Number A-03-056

Past contributions aggregated among two or more corporations under § 85311 are not aggregated with the contributions of an independent corporation which later purchases one of the corporations that had made the contributions. Contributions are aggregated under § 85311 at the time the contributions are made, and subsequent events do not cause "re-aggregation" of past contributions.

Jennifer Tierney
Friends of Mayor Dick Murphy
Dated: May 1, 2003
File Number A-03-077

The Act does not prohibit a candidate's committee from contracting with a firm which employs the candidate's adult child, even if he or she is assigned duties related to the candidate's campaign, as long as the payments are for services that have a political, legislative or governmental purpose.

Charles J. Taylor
State Board of Equalization
Dated: May 13, 2003
File Number A-03-085

Payments made or solicited by a nonprofit 501(c)(3) organization at the behest of a Board of Equalization member to cover the costs of holding financial literacy training seminars, cosponsored by the nonprofit organization and the elected official, will not constitute campaign contributions or gifts to him. The payments described fall within the exception to the definition of "contribution" in section 82015(b)(2)(B) that apply to certain payments made in connection with cosponsored events.

(Continued from page 23)

Diane Guyon
El Dorado County Elections Department
Dated: May 2, 2003
File Number I-03-093

Authorization to combine the July semi-annual and the second pre-election statement for El Dorado County in connection with a July 29, 2003, election is provided.

Gerald F. Madea
Los Altos City Council
Dated: April 14, 2003
File Number A-02-324

The campaign funds raised by a former candidate for local office in 1989 are considered "surplus funds" under section 89519 and may not be used for a future campaign by the former candidate.

Adam C. Gray
Merced County Democratic Central Committee
Dated: April 18, 2003
File Number A-03-068

There are no limits on the amount a political party committee may receive into an account established for purposes other than to support or oppose state candidates (non-candidate account); a political party committee may use funds from its non-candidate account to make contributions to another political party committee's non-candidate account; a political party committee may not use funds from its non-candidate account to make contributions to another political party committee's account established to support or oppose state candidates; and, intermediary reporting is not required when one committee contributes unearmarked funds to another committee, are the conclusions reached in this letter.

King W. Collins
Placer County Clerk-Recorder-Registrar of Voters
Dated: April 18, 2003
File Number I-03-075

The registrar of voters is advised that candidates who file pre-election campaign statements in connection with an August 12 special district election will satisfy the requirement to file the semi-annual statement due July 31, 2003.

David Bauer
Sam Aanestad for Senate
Dated: March 3, 2003
File Number A-02-333

A candidate for state elective office need not report the transfer of a web site from one committee for state office to a future committee of the same candidate for state elective office. The letter supersedes contradictory advice of *Chandler* Advice Letter, No. A-92-548, and *Hansen* Advice Letter, No. A-92-627.

James R. Sutton
Friends of Mark Wyland
Dated: March 3, 2003
File Number A-03-008

Section 85321 of the Act permits an Assembly member to raise funds in amounts not subject to the limits of sections 85301 and 85302 for the sole purpose of repaying debt from the November 2000 election. For audit and enforcement purposes, the debt from the pre-Proposition 34 election must be segregated in a committee that will not conduct any fundraising for a future election, but will only raise funds for debt retirement.

Gladys O. Miller
State Assembly
Dated: March 26, 2003
File Number A-03-017

The candidate was advised that due to the circumstances of her particular situation, she will be allowed to use surplus funds consisting of a refund from the county, to pay herself back the money she had given her committee to pay her candidate's filing fee, a payment which was mistakenly characterized as a "contribution."

Alan Seman
City of Rancho Mirage
Dated: March 13, 2003
File Number A-03-041

A local incumbent candidate asked whether he may contribute funds from his candidate controlled committee established for his current term of office to other city council candidates. The Act does not prohibit the expenditure so long as it is reasonably related to a political, legislative or governmental purpose.

(Continued on page 25)

(Continued from page 24)

Conflict of Interest

Daniel S. Hentschke

City of Carlsbad

Dated: May 1, 2003

File Number I-03-031

A potential conflict of interest exists where there is a "nexus" between an official's private obligations to a source of income and his public obligations as a member of a water board making decisions on a desalination project.

Michele Beal Bagneris

City of Pasadena

Dated: May 1, 2003

File Number I-03-049

General assistance is provided to the city on determining foreseeability of the material financial effects of decisions relating to a Rose Bowl operating company's efforts to attract an NFL franchise to the Rose Bowl in Pasadena.

John J. Sansone

County of San Diego

Dated: May 5, 2003

File Number I-03-058

The "public generally" exception may apply to a county supervisor's own property which is presumed to experience a material financial effect, if the decision will affect the public official's economic interests in substantially the same manner as it will affect a significant segment of all property/homeowners.

Adam U. Lindgren

City of Half Moon Bay

Dated: May 22, 2003

File Number A-03-065

A council member will still have an economic interest in her spouse's real property, even though she may have quitclaimed her own interest in the property pursuant to a pending divorce.

Karin D. Troedsson

Town of Yountville

Dated: May 6, 2003

File Number A-03-072

A city council member who lives in a mobile home park has an interest in real property in the leased

space (unless the space is leased on a month to month basis) and an interest in the mobile home itself as an asset. Based on the lease provided, the council member only has a license in common areas in the mobile home park, which did not rise to the level of real property interest. Thus, for the purpose of the 500-foot test of regulation 18704.2, the official should measure from the boundaries of the leased space his mobile home occupies.

Barbra Williamson

City of Simi Valley

Dated: May 12, 2003

File Number A-03-078

The public official was advised that because her condominium is located within 500 feet of the proposed site for a mall, she may not participate in decisions regarding the mall if the decisions will have a material financial effect on her real property interest. Attending the ICSC convention to encourage retail stores to sign on as mall tenants does not constitute governmental decision-making.

Guy D. Petzold

City of Stockton

Dated: May 28, 2003

File Number A-03-094

A requestor sought advice as to whether section 84308 barred receipt of a campaign contribution. The requestor was advised that the campaign contribution could be received, but would subject the recipient to future disclosure and disqualification obligations should the contributor appear before her agency.

Michael Harrison

Calabasas City Council

Dated: May 15, 2003

File Number A-03-096

A member of the city council does not have a conflict of interest in decisions regarding a law firm from which he rents his office space on a month-to-month basis and to which he pays full fair market value rent because he has no economic interest in the decision. A member of the city council is not prohibited from participating in decisions that might affect the source of a campaign contribution.

(Continued on page 26)

(Continued from page 25)

Milan "Pete" Petrovich
City of Brentwood
Dated: April 3, 2003
File Number I-02-289

A member of a city council has an economic interest in a corporation that has submitted an application to the city for a cable television franchise; therefore, the city council member is prohibited from making, participating in making or influencing any decision of the city council concerning the corporation.

J. Christine Dietrick
City of Pismo Beach
Dated: April 8, 2003
File Number I-02-325

The concerns of three public officials regarding participation in the adoption of a specific plan and their possible conflicts of interest were addressed in *Hunt*, Advice Letter No. A-02-073, a prior advice letter. This follow-up letter applies the "public generally" exception and segmentation to the specific plan decisions. While most of the economic interests met the criteria of the significant segment component of the "public generally" exception, whether or not they would be affected in substantially the same manner is a factual determination that the public official must make – the Commission does not act as a finder of fact.

Gregory J. Oliver
Office of the County Counsel
Dated: April 1, 2003
File Number A-03-002

A county supervisor who owns his own law firm is advised on representing clients while also participating in budget and collective bargaining decisions. So long as the decisions do not have a reasonably foreseeable material financial effect on his law firm or its clients, he may participate in the decisions. The county supervisor is also advised that his membership in a local nonprofit organization will not affect his participation in the budget decisions while on the board of supervisors since the nonprofit organization does not constitute an economic interest.

Judy Spelman, RN
California Senate
Dated: April 28, 2003
File Number A-03-023

A consultant to a state senator would have a conflict of interest under section 87103 with respect to certain governmental decisions that the consultant is participating in while working on universal health care legislation, if the consultant accepts income from Kaiser Permanente through on call employment as a nurse.

Lori J. Barker
City of Chico
Dated: April 8, 2003
File Number A-03-028

If development standard and subdivision decisions will affect a significant segment of the "public generally" in substantially the same manner as they will affect planning commissioner's economic interests, then the commissioner may participate in decisions.

Susan E.M. Dell'Osso, et al.
City of Lathrop
Dated: April 3, 2003
File Number A-03-029

Members of a local financing authority board sought advice whether they have a conflict of interest, based on their employment, prohibiting them from voting on a proposal to create a special funding district for assessing fees for water and sewer services. The members were advised that since their employer is both the sole landowner and sole industry, trade or profession in their jurisdiction, the specialized form of the "public generally" exception at regulation 18707.7 permits them to make decisions relating to the formation of the special funding district.

Terence R. Boga
City of Seal Beach
Dated: April 17, 2003
File Number A-03-047

The mayor and a council member may participate in a series of decisions because the "public generally" exception applies where 40% of property owners are affected by the decision in substantially the same manner.

(Continued on page 27)

(Continued from page 26)

Jay A. Lembach

City of Encinitas

Dated: April 21, 2003

File Number A-03-048

A public official will not have an economic interest in a nonprofit corporation he is forming provided he does not receive income from it.

Bart J. Thiltgen

City of Bakersfield

Dated: April 17, 2003

File Number I-03-053

A council member requested advice as to whether he could vote on decisions to initiate public works projects when his employer might provide funding to contractors or subcontractors awarded the project. The council member was advised that it is not reasonably foreseeable that these decisions will have a material financial effect upon his employer. Insufficient information was provided by the requestor to allow advice on whether the council member has a conflict of interest disqualifying him from voting on a decision to award a contract to a customer of his employer.

George W. Snyder

Lake Don Pedro Community Services District

Dated: April 11, 2003

File Number I-03-054

A board member for a community services district is advised that when his employer, a corporation, applies to the district to provide services for a development, it meets the test for being directly involved in a governmental decision. The board member will be required to recuse himself from the decision because any reasonably foreseeable financial effect at all, even one penny, on the corporation when the corporation is directly involved in a decision before the district is deemed material.

W. Andrew Hartzell

County of San Bernardino

Dated: April 18, 2003

File Number I-03-059

This county supervisor was advised that he may

not participate in decisions regarding employee health insurance plans if the decisions will have a material financial effect on his spouse's medical practice or on any patient who is a source of income.

Bob Biddle

Office of Assemblyman Tom Harman

Dated: April 3, 2003

File Number G-03-063

The office of Assemblymember Tom Harman asked whether an individual can be on the city council and also on the board of a sanitation district in the same city. The letter informed the requestor that the topic was not within the Political Reform Act and referred him to the Office of the Attorney General.

Sandra Wallace

Soquel Elementary School District Board of Trustees

Dated: April 29, 2003

File Number A-03-069

It is presumed that an official's property will be materially affected by a decision concerning a school within 500 feet of her property. This presumption may be rebutted by proof that it is not reasonably foreseeable that the decision will have any financial effect on the property; an appraisal considering certain factors might rebut this presumption.

Refugio Espinoza

California Franchise Tax Bd.

Dated: March 13, 2003

File Number A-02-312

The Act's conflict of interest provisions do not prohibit acquisition of an interest in a CPA partnership, although that economic interest could give rise to a conflict of interest in any governmental decisions with a reasonably foreseeable material financial effect on the economic interest.

Adam U. Lindgren

City of Fort Bragg

Dated: March 5, 2003

File Number A-02-323

The mayor's employer is indirectly involved in a general plan decision. The mayor may not par-

(Continued on page 28)

(Continued from page 27)

ticipate in a decision if the decision will result in a material financial effect on one or more of his economic interests.

Nicole A. Tutt
Pajaro Valley Water Management Agency
Dated: March 4, 2003
File Number A-02-341

A water district director was advised that he is disqualified from the water district's decisions regarding the district's pending collection suit against an individual who, through his business, is a source of income to the director. The advice follows the guidance in *In re Nord* (1983) 8 FPPC Ops. 6 and the *Hentschke* Advice Letter No. A-80-069.

John B. Fisher
City of Dunsmuir
Dated: March 21, 2003
File Number I-03-001

A newly elected city council member seeks advice as to whether his business, which sells goods to the city, causes him to have a conflict of interest. The "public generally" exception at regulation 18707.1(b)(1)(D) may apply when a governmental entity is an economic interest (e.g., source of income) to a public official. The analysis also discusses the special "public generally" exception that may apply when an official has an economic interest in a business entity located in a small jurisdiction.

H. Peter Klein
Mendocino County Board of Supervisors
Dated: March 11, 2003
File Number A-03-006

A county supervisor's personal residence, sources of income and business would potentially be affected by a vote on various aspects of a general plan for the unincorporated county. Based on the analysis of the facts presented, the supervisor was advised that he did not have a disqualifying conflict of interest with respect to his personal residence unless it was reasonably foreseeable that improvements of the access road in front of his home would have a material financial effect on the value of his property. With respect to the sources of income, the supervisor was advised that the source of income in excess

of \$500 that had initiated a proceeding before the board was a disqualifying conflict of interest. With respect to his business, the supervisor had determined that the applicable materiality standard would not be met, so there was no disqualifying conflict of interest.

Dana Hield Whitson
City of Sausalito
Dated: March 28, 2003
File Number A-03-007

A city council member is advised that based on the proximity of his principal residence and/or the shared boundary between common areas of his condominium complex and a city-owned parcel, he is presumed to have a conflict of interest disqualifying him from voting upon decisions concerning the use of the parcel. However, in the event that such use is restricted in its effect to a discrete segment of the parcel and that segment is 500 feet or greater from the shared boundary of the parcel, it is presumed that the council member will not have a conflict of interest disqualifying him from voting upon decisions affecting the use of that segment of the parcel.

Beth Sazama Lyons
California Joint Powers Insurance Authority
Dated: March 19, 2003
File Number A-03-012

An assistant executive director of the California Joint Powers Insurance Authority will not have a conflict of interest if her spouse bids on or secures a contract with the authority so long as she does not make, participate in making, or influence any governmental decision that will have a foreseeable and material financial effect on any of her economic interests. The official was advised to consult her agency regarding statement of economic interests reporting requirements.

Steven L. Andriese
Mountain-Valley Emergency Medical Services Agency
Dated: March 20, 2003
File Number A-03-016

A change in facts generates a follow-up letter to *Andriese* Advice Ltr. No. A-02-276. In the follow-up letter, the requestor was advised that until a record has been established that the new struc-

(Continued on page 29)

(Continued from page 28)

ture provides a substantive, intervening level of review, it will continue to be considered decision-making. Thus, the members of the committee will be public officials until that time.

Celia A. Brewer
City of Solana Beach
Dated: March 12, 2003
File Number A-03-019

A city council member was advised that since his residence was located more than 500 feet from the boundaries of an erosion control project, his interest in real property did not give rise to a conflict of interest disqualifying him from voting on the project. Under the facts provided, a city council decision on the erosion control project would implement an existing ordinance and would be discrete from the city's separate consideration of a new local coastal plan, which plan includes an area of the city located within 500 feet of the council member's residence.

Richard P. Shanahan
Sacramento Suburban Water District
Dated: March 3, 2003
File Number A-03-020

If decisions will affect a director's personal finances by \$250 or more in any 12-month period, that director will have a conflict of interest in the decision and absent an exception, may not make, participate in making, or influence the decisions. Regulation 18705.5(b) provides an exception where the financial effects of a decision are only on "the salary, per diem, or reimbursement for expenses the public official or a member of his or her immediate family receives from a federal, state, or local government agency...." However, this exception does not apply where the decision is to "hire, fire, promote, demote, suspend without pay or otherwise take disciplinary action with financial sanction against the official or a member of his or her immediate family or to set a salary for the official or a member of his or her immediate family which is different from salaries paid to other employees of the government agency in the same job classification or position."

Clothilde V. Hewlett
Department of General Services
Dated: March 21, 2003
File Number I-03-024

Specific advice regarding the definition of a "consultant" and what constitutes a disqualifying conflict of interest for those consultants is provided in this follow-up letter to *Hewlett* Advice Letter, No. I-02-234. In this case, the consultants will continue to have a conflict of interest in decisions that will have a reasonably foreseeable material financial effect on their former employer until the income from the past 12 months falls below the \$500 threshold.

Clark H. Alsop
City of Fontana
Dated: March 5, 2003
File Number A-03-032

Certain gifts received in a bona fide dating relationship are not reportable by a city council member and will not create a conflict of interest. These gifts also are not subject to the Act's gift limits.

Shana Levine
Dixon Unified School District
Dated: March 26, 2003
File Number I-03-036

General guidance is provided to a school board member regarding possible conflicts of interest with a geotechnical engineering firm of which her husband owns 3%. There was no specific governmental decision analyzed.

Bradley W. Sullivan
City of Sutter Creek
Dated: March 11, 2003
File Number A-03-038

A council member does not have a real property interest in his month-to-month tenancy.

Roger Rodoni
Humboldt County Board of Supervisors
Dated: March 10, 2003
File Number A-03-043

A member of the Humboldt County Board of Supervisors seeks clarification as to whether he can vote on a decision to allocate additional funds by the district attorney's office in order to

(Continued on page 30)

(Continued from page 29)

hire outside counsel for a lawsuit against Pacific Lumber. The member leases property from Pacific Lumber. Based on the facts provided, the official will not have a conflict of interest unless the decision will have a material financial effect on his lease.

Conflict of Interest Code

Edward L. Knapp
El Dorado County
Dated: April 4, 2003
File Number A-02-229

The grand jury of El Dorado County continues to be a local government agency which is required to adopt its own code. The El Dorado Board of Supervisors is the code reviewing body for the grand jury.

Chisorom U. Okwuosa
California Department of Aging
Dated: March 12, 2003
File Number A-03-034

A state commission should be removed from a state agency's conflict of interest code. A separate code should be adopted for the commission.

Gift Limits

Bruce Leavitt
City of Santa Rosa
Dated: May 15, 2003
File Number A-03-080

City council members are advised that free admission to an educational summit is "informational material" under the Act and not a gift. Any transportation, meals or other benefits received would not be "informational material" and would be gifts subject to the Act.

Diane Baumann
39th District Agricultural Association
Dated: April 9, 2003
File Number I-03-035

A county fair association is advised on the receipt of passes and shirts from the association, as well as passes received from other entities. Also discusses when payments are given to the associa-

tion as opposed to the official who ultimately receives the payment.

Norbert J. Bartosik
California Exposition & State Fair
Dated: March 12, 2003
File Number I-03-011

This board was advised that any tickets or passes provided to them by their own agency, other than those tickets provided for their own attendance, would be gifts subject to the Act's disclosure and disqualification provisions.

Mass Mailing

Lieutenant Jack J. Anderson
County of Orange
Dated: April 4, 2003
File Number A-03-033

A proposed questionnaire produced by a sheriff's department and referring to the sheriff meets all the criteria of regulation 18901(a) and consequently, is prohibited by section 89001 of the Act.

Revolving Door

Kerry Mazzoni
Secretary of Education
Dated: May 19, 2003
File Number A-03-066

The Secretary of Education is provided with general information concerning the applicability of the one-year ban under the Act's post-employment restrictions. The general advice determines that the one-year ban is applicable to her and applies to the entire executive branch of the government but not to other constitutional officers.

Bruce A. Kaspari
Department of Justice
Dated: March 25, 2003
File Number I-03-013

A retired state administrative official is provided with general information concerning the applicability of the one-year and permanent bans under the Act's post-employment restrictions. A former supervisory employee sought advice whether he could accept employment with a company that

(Continued on page 31)

(Continued from page 30)

would provide consulting services to agencies other than the employee's former state administrative agency employer.

Statement of Economic Interests

Ellen Corey Born
Port of San Diego
Dated: March 28, 2003
File Number A-03-025

A port commissioner need not disclose on his statement of economic interests individual sales of "calls" he makes during the year. Rather, the investments themselves and income from the transactions, such as shares in an institution, are reported on the schedules of Form 700.

Honoraria

Doreen Liberto-Blanck
County of San Luisa Obispo
Dated: May 15, 2003
File Number A-03-060

Because books are expressly excluded from the definition of "article" under regulation 18931.2, a public official was not precluded by the ban on accepting honoraria for any books that she might write, either alone or with a co-author.

November 2003 Ethics Course for Lobbyists

The legislative ethics committees have announced that an ethics course for lobbyists will be conducted in Sacramento on November 13, 2003.

Any lobbyist who has not completed the ethics course requirement for the 2003-2004 legislative session should attend this course. (California Government Code Section 86103).

Spaces will be filled in the order that sign-up forms accompanied by a \$25 check or money order (payable to "JOINT ETHICS COMMITTEE") are received in the office of the Senate Committee on Legislative Ethics at 1020 N Street, Room 238, Sacramento, CA 95814.

To obtain a sign-up form, telephone (916) 324-6929.

Sign-up deadline: 5:00 p.m., Friday, November 7, 2003.

Lobbyists not completing the ethics course requirement and failing to comply with the related filing deadlines are prohibited from acting as a lobbyist in California and may be subject to criminal penalties and substantial fines.

- ✓ Advance sign-up required
- ✓ \$25 fee required with form
- ✓ Check or money order only
- ✓ No Cash – No credit cards

What: Lobbyist Ethics Course

Where: Sacramento, CA

When: Thursday, Nov. 13, 2003

For details and to obtain a sign-up form contact Jeanie Myers at 916-**324-6929**. Space is limited. Sign up early.

